Before the FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

EB Docket No. 04-296

In the Matter of

Review of the Emergency Alert System

COMMENT BY THE INTERGOVERNMENTAL ADVISORY COMMITTEE TO THE NOTICE OF PROPOSED RULEMAKING (NPRM)

Respectfully submitted on behalf of

FCC INTERGOVERNMENTAL ADVISORY COMMITTEE

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Summary

The Intergovernmental Advisory Committee (IAC), on behalf of tribal, state, and local authorities, submits its Comment to the Notice of Proposed Rulemaking (NPRM) concerning the Emergency Alert System (EAS), seeking comment on whether EAS in its present form is the most effective mechanism for warning the American public of an emergency and, if not, on how EAS can be improved.

The FCC includes a number of factors to consider in this NPRM: the effectiveness, responsiveness, technical specifications and local, Federal and state participation on the EAS.

In its Comment, the IAC offers tribal, state and local perspective on these factors and other considerations toward a more effective Emergency Alert System.

History

"This is a test of the Emergency Alert System—this is only a test…"

You will occasionally hear or see these words on your local broadcast station or cable system.

In 1951, President Harry Truman established CONELRAD (Control of Electromagnetic Radiation) as the first national alerting system. Under CONELRAD, radio stations were required to broadcast only on certain frequencies during an emergency alert. This prevented an enemy from attacking by using transmissions from broadcast stations as a guide for their target.

CONELRAD later became the "Emergency Broadcast System" (EBS). The EBS was designed to provide the President with a means to address the American people in the event of a national emergency. Through the EBS, the President had access to thousands of broadcast stations to send an emergency message to the public.

In 1994, to overcome some of the limitations of the older EBS system, the Federal Communications Commission (FCC) replaced the EBS with the Emergency Alert System (EAS). The major difference between EBS and EAS is the method used to alert broadcast stations about an incoming message.

The EAS provides not only the President, but also national, state and local authorities, with the ability to give emergency information to the general public via broadcast stations, cable and wireless cable systems. While participation in national EAS alerts is mandatory for these providers, state and local area EAS participation is voluntary.

The FCC and EAS

The FCC designed the EAS in cooperation with the National Weather Service (NWS) and the Federal Emergency Management Agency (FEMA). Each of these agencies plays an important role. The FCC provides information to broadcasters, cable system operators, and other participants in the EAS regarding the technical and operational requirements of the EAS. Additionally, the FCC ensures that state and local EAS plans conform to the FCC's rules and

regulations. The NWS provides emergency weather information to alert the public about dangerous conditions. FEMA provides direction for state and local emergency planning officials to plan and implement their roles in the EAS.

The ultimate goal of the EAS is to disseminate emergency information as quickly as possible to the people who need it. [1]

Background

The test script may only be heard occasionally because the new EAS weekly test does not require a test script. Instead the new weekly test consists of an eight-second digital data signal. The signal contains the information necessary to test the EAS. There is also a monthly test that has a test script. The monthly test script is developed locally and usually contains information that is relevant to the local area.

Since **January 1, 1997**, all AM, FM and TV broadcast stations have been using the above test procedures. Also, since **December 31, 1998**, cable systems that have 10,000 or more subscribers are part of the EAS. They are doing the above tests and have the capability to transmit emergency messages on all of their video channels.

There are other important changes as well. The EAS uses digital technology to distribute messages. This allows for a lot of improvements in providing emergency information to the public. The new system provides state and local officials with a new method to quickly send out important local emergency information targeted to a specific area. The information can be sent out through a broadcast station and cable system even if those facilities are unattended. Also, the EAS digital signal is the same signal that the National Weather Service (NWS) uses on NOAA Weather Radio (NWR). This allows NWR signals to be decoded by the EAS equipment at broadcast stations and cable systems. Broadcasters and cable operators can then retransmit NWS weather warning messages almost immediately to their audiences.

Also, specially equipped consumer products, such as televisions[2], radios, pagers and other devices, can decode EAS messages. The consumer can program these products to "turn themselves on" for the messages they want to receive.

Why have and Emergency Alert System?

The EAS is designed to provide the President with a means to address the American people in the event of a national emergency. Through the EAS, the President would have access to thousands of broadcast stations, cable systems and participating satellite programmers to transmit a message to the public. The EAS and its predecessors, CONELRAD and the Emergency Broadcast System (EBS), have never been activated for this purpose. But beginning in 1963, the President permitted state and local level emergency information to be transmitted using the EBS.

What does the new Emergency Alert System mean for you?

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[1] FCC, The Emergency Alert System, available at: http://www.fcc.gov/cgb/consumerfacts/eas.html

[2] Indeed, there are specially equipped consumer products, but they are not all required to decode EAS messages. Example: televisions with screens smaller than 13" do not decode EAS messages, nor are they required to do so.

- **Automatic Operation.** The EAS digital system architecture allows broadcast stations, cable systems, participating satellite companies, and other services to send and receive emergency information quickly and automatically even if those facilities are unattended.
- **Redundancy.** The EAS requires monitoring of at least two independent sources for emergency information. This insures that emergency information is received and delivered to viewers and listeners.
- **Less Intrusive.** EAS tests are shorter and less obtrusive to viewers and listeners. Therefore, when people do hear or see the EAS messages, they will take them more seriously.
- **Second Language.** Do you or someone you know watch Spanish-language programming? EAS digital messages can be automatically converted into any language used by the broadcast station or cable system.

Who makes the Emergency Alert System work?

The FCC designed the new EAS, working in a cooperative arrangement with the broadcast, cable, emergency management, alerting equipment industry, the National Weather Service and the Federal Emergency Management Administration.[3]

The Considerations

To better address the issues, the IAC has broken out the NPRM into the following topics for consideration:

- Regulations
- Terminology
- Technology
- Funding
- The Planning Process

Consideration: Rules

Rules for Participation

Starting with the regulations or rules for participation, there are few requirements in this category. Participation in the EAS by the nation's broadcasters is voluntary EXCEPT in the event of a national emergency; i.e., the only EAS message they MUST carry is the warning of a national emergency by or for the White House.

Besides the never-used White House or Federal activation of the EAS, there are three primary participants in the EAS: 1) The broadcasters (AM, FM, and TV stations and the CATV industry); 2) The National Weather Service for weather-related warnings; 3) State and local emergency management agencies for civil emergencies.

Some state and local agencies participate for weather warnings or the AMBER alert, but there is no uniform system across the country. The question on *requiring* participation becomes whether or not there is a need for rulemaking or statutory changes?

Examples of participation of Federal agencies include:

[3] FCC Fact Sheet EAS, available at: http://fcc.gov/eb/easfact.html

FCC. The FCC provides information to broadcasters, cable system operators, and other participants in the EAS regarding the requirements of this emergency system. Additionally, the FCC will ensure that EAS state and local plans developed by industry conform to the FCC EAS rules and regulations and enhance the national level EAS structure.

NWS. NWS provides emergency weather information used to alert the public of dangerous conditions. Over seventy percent of all EAS and EBS activations were a result of natural disasters and were weather related. Linking NOAA Weather Radio digital signaling with the EAS digital signaling will help NWS save lives by reaching more people with timely, site-specific weather warnings.

FEMA. FEMA provides direction for state and local emergency planning officials to plan and implement their roles in the EAS.

Rules for Messaging

The FCC has always required (Emergency Broadcast rules since 1963) that television stations provide clear text of warnings and emergency public information for the hearing impaired. The FCC levied fines against San Francisco Bay Area television stations following the Loma Prieta earthquake (1989) because the hearing impaired were not accommodated as required by the FCC. California's Emergency Digital Information Service (EDIS since c.1991) delivers warning and emergency public information from government agencies in digital form to "clients" via VHF and UHF radio transmitters serving California's major population centers.

The transmission of a monthly test is relatively "new" (Required Monthly Test/RMT). It requires a scheduled monthly test that must be broadcast by all stations and CATV. This is not optional.[4] It requires the RMT be carried either simulcast or no more than 15 minutes delay.

In July 2004, the President signed the Executive Order: *Individuals with Disabilities in Emergency Preparedness* that focuses on strengthening emergency preparedness with respect to individuals with disabilities. [5] The Executive Order directs the federal government to address the safety and security needs of people with disabilities.

Rules for Equipment

Rules for the equipment are covered in part by the *Cable Criteria* issued by the FCC. These rules (new Part 11) include exemption information for cable operators and information about EAS decoder hardware. These FCC Rules apply to the broadcast and cable TV industry. While government agencies, or anyone else for that matter, are not held to these rules, there is pertinent information that is included in these rules.

The rules for technology provide a number of concerns to local government and public safety agencies:

[4] See the FCC Part 11 [(§11.61(a)(1)] Rules for details.
[5] See Executive Order: Individuals with Disabilities in Emergency Preparedness, available at: http://www.whitehouse.gov/news/releases/2004/07/print/20040722-10.html

For example, if government agencies, or others outside the broadcast and cable TV industry, do not acquire the new EAS decoder hardware, they may be unaware that the broadcasters are carrying an EAS message of which local government is unaware. The broadcasters and the National Weather Service are under no requirement or obligation to "clear" a severe weather warning with local authorities. To do so would unnecessarily delay a vital warning.

Until local government and/or public safety agencies (a) have the new EAS equipment and (b) a local radio system to transport it to the broadcasters and CATV (cable television distribution) firms, they will have to telephone "the old fashioned way" to get the information. This will take public safety and emergency management officials longer to simply put out 9information bulletins – or not at all. Another common complaint from Public Safety Answering Points (PSAPs – 9-1-1 Center) managers is that they don't like unexpected surprises. If and when the EAS is activated, their telephones can light up like a Christmas tree. "What emergency?" They can be the last to know about an emergency or warning in their own jurisdiction. By having the EAS equipment in the PSAP, they will know the same time the media does [6] (e.g. National Weather Service issuing evacuation instructions).

Consideration: Terminology

Many EAS Plans incorporate Glossaries or Definitions pages. Common use of (understood) terminology is vital in an emergency environment. The common thread found in each plan, local, state, tribal and Federal government agency is the question of what constitutes an *"emergency"?*

The collaboration of Federal agencies in this case also raises the question on whether there should be one single agency "responsible" for EAS? How should the information "flow" (e.g., from local government, through EAS and vice versa) How is the information authenticated? These questions are under consideration with the IAC during this Comment and Reply period.

Consideration: Technology

Many local government agencies have disparate equipment within their respective communities. Law enforcement communities may work from a system separate from that of fire or medical service personnel. By the same token, neighboring jurisdictions often have disparate communications equipment thereby rendering them "stove-piped" and focused on how to deliver messages rather than what to do with the actual warning messages.

Reasons for the disparities range from lack of technical standards to agency budgets. Smaller municipalities can rarely afford systems that are compatible with their larger bordering counterparts (counties, boroughs, etc).

This "mix and match" environment does little to support interoperable communications, but reiterates the need for it. Yet the idea of standardizing technology in the vertical path of the EAS results in the discussion about unfunded mandates (e.g., who is going to pay for the new technology? Who is going to pay for maintaining and upgrading the new system?).

Consideration: Funding

[6] State of California, EAS – FAQ, available at: http://eas.oes.ca.gov/Pages/easfaq.htm

Some states have supplemental broadcast systems to the EAS that are funded with existing infrastructure (e.g., California State OES Telecommunications and broadcast participants have worked together on a voluntary basis and with second-hand transmitters and hardware). As a part of the President's Executive Order[7], the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (Interagency Council) was created. Secretary Ridge, Department of Homeland Security, chairs this council. As part of its FY 2004 Competitive Training Grants Program, sought applications addressing training gaps related to prevention and preparedness. One of the issue areas specified included assistance for special needs populations.[8] The IAC advocates the use of DHS funding, Block Grants and/or Federal assistance in providing the training, technology and testing for use in establishing "Best Practice" modeling for the country.

This "one-time" funding will be coupled with questions on training, maintenance, governance and technical standards. Given the disparate systems across the country and the differences between rural and urban America, options should be considered for implementation (i.e., a "system of systems" that are interoperable).

Consideration: The Planning Process

EAS Plans are required by the FCC. Every state is divided into one or more Local Areas. The larger a state's geography, the more Local Area plans must be accomplished. The Plan should be simple, accurate, and easy to follow. Together, the Local Plans constitute the State Plan.

The FCC appoints the Chairs of each State Emergency Communications Committee (SECC). The SECC divides each state into workable Local Areas and appoints a Chair of each Local Emergency Communications Committee (LECC). These committees, all volunteers, are responsible for preparing the State and local EAS plans, yet there are no specific guidelines (rules) from state to state. Some of the more important considerations in the planning efforts include political boundary considerations with respect to specific hazards (e.g. nuclear power plan, hazardous material site, a dam, volcano, etc). The IAC advocates the use of a simple and accurate plan, and that the FCC considers creating a "Best Practice" modeling in this case.

Conclusion

Most EBS plans follow a format established circa 1963 that, with all due respect, outlived its usefulness almost at the offset. The problem is not what is said, but how it is presented. The typical EBS plan, after long and laborious writing, is obsolete the day after it is printed. Why? Because it is laced with transient, changeable and "volatile" information.

Perhaps someone envisioned the EBS Plan hanging on every broadcast control room in the nation. Then comes the emergency! The control operator takes the voluminous EBS Plan off the wall, turns down the lights and the program audio, dutifully studies The Plan and searches for a description of what it is he or she is to do. That is the trouble with plans formatted like that, among the notion of making sure everyone knows about the information and what to do with it of

[7] Executive Order: Individuals with Disabilities in Emergency Preparedness

[8] See Department of Homeland Security to Lead Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, available at: http://www.dhs.gov/dhspublic/display?theme=43&content=3859&print=true

course. We are loathe to update, fund and integrate technology, publish plans and redistribute them when an important change is made. In large states, changes occur several times a month. A viable EAS is a partnership between broadcasters/*cable casters*, the National Weather Services, local, state and Federal governments.[9]

The considerations discussed throughout this Comment are under review by the IAC and will be followed up during the Reply period of this NPRM.

[9] See State of California, "What is EAS?" available at: http://eas.oes.ca.gov/Pages/whatseas.htm